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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Commissioner for Patents, Washington, D.C. 20231 on this date: March 27, 2001.

By: 

Name of person signing: Mary R. Zimmerman

In re Application for:

Vishva M. Dixit

Application Serial No.: 09/224,556

Filing Date: December 30, 1998

For: **CD40 BINDING COMPOSITIONS
AND METHODS OF USING SAME**

Examiner: R.C. Hayes

Group Art Unit: 1646

Attorney's Docket No. 1280190-201702

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**DECLARATION OF VISHVA M. DIXIT
PURSUANT TO 37 C.F.R. § 1.131**

Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

I, Vishva M. Dixit, declare as follows:

1. I am the sole inventor of the above-referenced patent application, and am familiar with the contents thereof.
2. I have reviewed the references cited by the Examiner under 35 U.S.C. § 102, namely, Sato et al., *FEBS Letters* (1995) 358:113-118; Cheng et al., *Science* (1995) 267:1494-1498; and Mosialos et al., *Cell* (1995) 80:389-399, each of which is dated less than one year prior to the effective U.S. filing date of March 13, 1995. These references are alleged to show the invention of claims 35 to 38, 43, 47 to 53 and 55 to 57 as originally filed in the subject application.

3. The subject matter which I desire to claim does not correspond to a lost count in an interference and is not otherwise barred to the Applicant.

4. As is evident from the attached document (provided in an envelope to preserve confidentiality until such time as the patent issues and the file is open to the public), Applicant completed the invention in the United States prior to November 11, 1994.

5. As evidence of such, attached hereto is a manuscript submitted to the Journal of Biological Chemistry describing the isolation of cDNA and mRNA encoding CD40bp, cloning into the expression vector, pcDNA3, followed by transfection into the isolated host cell, 293T, to produce the protein. To the extent the invention is disclosed in the references cited against the claims under 35 U.S.C. § 102, the attached manuscript shows a conception and a reduction to practice of those embodiments, prior to the publication dates of the cited references. A showing of diligence is not required because the reduction to practice occurred prior to the publication dates of the references.

6. The date of acceptance stamped by the Journal of Biological Chemistry has been removed from this document. However, it is prior to November 11, 1994.

7. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

3/20/01
Date

Vishva M. Dixit
Vishva M. Dixit